

46 Am. Jur. 2d Judges § 150

American Jurisprudence, Second Edition | February 2022 Update

Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

5. Prior Participation in, Connection with, or Knowledge of the Case or Parties as Grounds for Disqualification

b. Prior Participation in or Connection with Case as Judge as Grounds for Disqualification

§ 150. Right of judge to review own acts

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  48

In the absence of a constitutional or statutory provision to the contrary, a judge is not disqualified to review his or her own judicial acts.¹ However, there are statutes providing that a judge must disqualify him- or herself from any civil or criminal action or proceeding when the judge of an appellate court previously handled the action or proceeding while a judge of an inferior court.² For instance, a federal statute provides that no judge will hear or determine an appeal from the decision of a case or issue tried by him or her.³ In addition, pursuant to the Code of Judicial Conduct, a judge should disqualify him- or herself when the judge previously presided as a judge over the matter in another court.⁴

Observation:

Under the principle that a judge should disqualify himself in a proceeding in which his or her impartiality might reasonably be questioned, a judge should not sit in review of a case decided by him, but this general principle is given common-sense application in the context of the presenting circumstances.⁵

© 2022 Thomson Reuters. 33-34B © 2022 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 [McMurphy v. State](#), 455 So. 2d 924 (Ala. Crim. App. 1984); [State v. Godfrey](#), 495 So. 2d 956 (La. Ct. App. 3d Cir. 1986).
- 2 [State v. American TV and Appliance of Madison, Inc.](#), 151 Wis. 2d 175, 443 N.W.2d 662 (1989).
- 3 28 U.S.C.A. § 47, as discussed in Am. Jur. 2d, Federal Courts §§ 533 to 536.
- 4 § 148.
- 5 [Poorman v. Com.](#), 782 S.W.2d 603 (Ky. 1989).
As to disqualification based on the fact that a judge's impartiality might reasonably be questioned, see § 135.

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.